

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06cv512**

GERARD ECKHARDT,

Plaintiff,

Vs.

BANK OF AMERICA, N.A.,

Defendant.

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ORDER

THIS MATTER is before the court on the plaintiff's Motion to Continue Trial. For cause, counsel for plaintiff counsel has shown that he was involved in a serious motor vehicle accident that caused his hospitalization the day after Thanksgiving and left his car totaled. Counsel advised that he was prescribed certain pain medications which have left him with an inability to concentrate adequately and a lack of stamina, all occurring one week before trial. While his partner has made an appearance, it would appear that counsel for plaintiff has done most if not all the work in this case and that plaintiff would be unfairly prejudiced if he was required to go trial without counsel being up to speed.

This is the court's first continuance of a civil trial in four years. There is, however, good reason to continue the trial. In continuing this case, the court fully

expects respective counsel to make good use of the time, and the court can think of no better use of such time than in attempting to reach an amicable resolution. The court has read all the evidentiary material submitted and could see how a jury could return a verdict for either the plaintiff or the defendant. The parties are encouraged to find a middle ground and resolve this matter while they still have the ability to do so.

ORDER

IT IS, THEREFORE, ORDERED that the plaintiff's Motion to Continue Trial (oral) is **GRANTED**, and this matter is continued and shall be reset for trial by the Clerk of this court. Depending on the demands placed on the courtrooms in Charlotte, respective counsel are advised that the court may reschedule this matter for trial in Asheville.

Signed: December 1, 2008

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Dennis L. Howell
United States Magistrate Judge

